In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 2231 of 2005

Date of Decision: September 22, 2006

Ajit Kumar

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Praveen Gupta, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana,
for respondent Nos. 1 and 2.

Mr. Madan Pal, Advocate,
for Mr. Sanjiv Sheoran, Advocate,
for respondent Nos. 3 and 4.

JUDGMENT

M.M. KUMAR, J (Oral)

This petition filed under Article 226 of the Constitution prays for quashing order dated 22.11.2004 (P-18) passed by the Secretary/Executive Committee, Haryana State Council for Science and Technology (Respondent No. 3) declining the claim of the petitioner for regularisation of his services in accordance with the policy instructions dated 1.10.2003 (P-13). A further prayer has been

made for issuance of writ in the nature of prohibition restraining the respondents not to refuse regularisation of the service of the petitioner on the pretext that the project under which he was working has come to an end on 31.3.2005.

We have heard learned counsel for the petitioner at some length. He has made three submissions in order to overcome the Constitution Bench judgment of Hon'ble the Supreme Court in the case of **Secretary, State of Karnataka & others v. Umadevi & others, (2006) 4 SCC 1**. His first submission is that once the policy of regularisation, dated 1.10.2003 (P-13) is in place then the judgment of Hon'ble the Supreme court in Umadevi's case (supra) would not be applicable and the case should have been decided in accordance with the policy instructions dated 1.10.2003 (P-13). He has then contended that para 53 of the judgment of Hon'ble the Supreme Court envisages as a one time measure to grant regularisation to those who have 10 years of service at their command although the learned counsel states that the case of the petitioner is not covered as he has not rendered 10 years service. His last argument is that the principal ground for terminating the services of the petitioner as disclosed in the impugned order dated 17.11.2004 (P-18), is that the financial help by the Central Government was given only up to 31.3.2005 and the project, in fact, has now been taken over by the State of Haryana as is evident from Annexure P-22.

Having heard the learned counsel we find that there is no merit in the aforementioned submissions. The first submission that

the Constitution Bench judgment in the case of Umadevi (supra) is not applicable to the case of the petitioner is liable to be rejected on the short ground that the reference order made in Umadevi's case, in fact, emanates from various policy instructions, which is reported as **Secretary, State of Karnataka & others v. Umadevi & others, (2006) 4 SCC 47**. In fact, we have considered this aspect in detail in the Division Bench judgment in the case of **Rajinder Kumar v. State of Haryana, 2006 (2) PLR 474**. The second contention raised by the petitioner falls in accordance with the submission made by the counsel himself. The third contention would not require any detailed consideration in view of the fact that there is a specific bar by the Constitution Bench in Umadevi's case (supra) that the Courts cannot pass order directing the employer to continue the service of contract employee. Therefore, the issues raised by the learned counsel for the petitioner are foreclosed by the judgment of the Constitution Bench and in our view are covered against the petitioner. Accordingly, the writ petition fails and the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

September 22, 2006
Pkapoor